

APPEAL NO. 022996  
FILED JANUARY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et. Seq.* (1989 Act). A contested case hearing was held on October 31, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, and 10th quarters. The appellant (carrier) appealed these determinations, and the claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was entitled to SIBs for the 1st through 10th quarters. At the hearing, it was undisputed that the claimant had not returned to work and had not documented a job search during the relevant qualifying periods. The claimant was basing her entitlement to SIBs for the disputed quarters on an assertion of total inability to work. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) provides that an injured employee has made a good faith effort to obtain employment commensurate with her ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The carrier argues that the hearing officer improperly applied Rule 130.102(d)(4). The hearing officer found that the treating doctor's medical report of April 4, 2002, which was supported by the medical records, constituted a narrative report, which specifically explained how the claimant's compensable injury caused a total inability to work for the period of time under review. The hearing officer additionally explained why she found the Texas Workers' Compensation Work Status Report (TWCC-73) filled out by the claimant's former surgeon on April 4, 2001, not to be credible and therefore failed to constitute a record which showed that the claimant had an ability to return to work. A review of the record does not indicate that the hearing officer improperly applied the applicable rule.

Whether a claimant is entitled to SIBs based on having no ability to work is a factual determination for the hearing officer to resolve. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The record in this case presented conflicting evidence for the hearing officer to resolve. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Susan M. Kelley  
Appeals Judge